



The Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

Matter of: Superior Engineering and Electronics Company,  
Inc.--Request for Reconsideration  
File: B-231772.2  
Date: October 3, 1988

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### DIGEST

Request for reconsideration of previous decision is denied where protester fails to demonstrate error of fact or law that would warrant modification or reversal of prior decision.

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### DECISION

Superior Engineering and Electronics Company, Inc., requests reconsideration of our decision, Superior Engineering and Electronics Company, Inc., B-231772, Aug. 31, 1988, 88-2 CPD ¶ \_\_\_\_. In that decision, we denied in part and dismissed in part Superior's protest of the cancellation of request for proposals (RFP) No. F04606-87-R-1202, issued as a total small disadvantaged business (SDB) set-aside by the Department of the Air Force for portable electric power stations.

We deny the request for reconsideration.

Superior initially protested that unduly restrictive RFP specifications requiring the use of components available only from General Electric Company (G.E.) and J.R. Hollingsworth Corporation prevented SDBs such as itself from making competitive offers, and that the agency incorrectly determined that all offers received were above the fair market price and did not, therefore, justify the set-aside. In this latter regard, according to Superior, requiring the use of components available from only two firms, neither of them an SDB that could receive an award under the set-aside, was bound to result in higher-priced offers than would have been the case if the Air Force had made the solicitation less restrictive, and the Air Force thus should have built these higher prices into its fair market price determination. Superior argued that the Air Force lacked a proper basis for its decision to withdraw the SDB set-aside and

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resolicit the requirement under a small business set-aside. See Department of Defense Federal Acquisition Regulation Supplement § 19.506 (SDB set-aside should be withdrawn where offered price is found to exceed the fair market price by more than 10 percent).

We dismissed as untimely Superior's challenge to the source limitation, since this was clear from the face of the RFP, and Superior did not protest prior to the initial closing date for the procurement, March 25. See Bid Protest Regulations, 4 C.F.R. § 21.2(a)(1) (1988). We nevertheless found that the Air Force had adequately explained why it required source-controlled components to meet its minimum needs (for purposes of interchangeability), and we also concluded that the cost of the components from the controlled sources had in fact been taken into account by the agency, both in its calculation of fair market price and in its comparison of that price with the prices offered under the set-aside. We further stated, however, that the fact that offers may have been inflated due to inflated price quotes from the controlled sources would not necessarily warrant a corresponding increase in the fair market price, since the fair market price is intended as an objective measure of the premium that would be paid under the set-aside. It thus was proper for the agency to base the fair market price analysis on the price it would have paid for the items without the SDB set-aside. See Superior Engineering and Electronics Company, Inc., B-231772, supra.

In its request for reconsideration, Superior asserts that we failed to consider its argument that the RFP entailed a built-in conflict of interest, since, according to Superior, if the SDB set-aside was canceled, one of the source-controlled vendors, Hollingsworth, would likely receive the contract. The firm also claims that in considering its protest with respect to the fair market price calculation, we ignored the agency's alleged failure to consider Hollingsworth's high component prices in determining the fair market price against which offered prices would be compared.

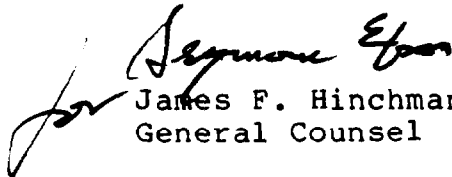
The standard for reconsideration is that a requesting party must demonstrate that our prior decision contains an error either of fact or law, or that the protester has information not previously considered, that warrants modification or reversal of the decision. See, e.g., American Maintenance Co.--Request for Reconsideration, B-228396.5, June 7, 1988, 88-1 CPD ¶ 534. This standard has not been met here.

We did not ignore Superior's argument that the RFP improperly required offerors to obtain components from a

source with an allegedly built-in conflict of interest that would cause the source to inflate its prices. Rather, we consider this to be merely one aspect of the firm's prior untimely allegation that the RFP improperly imposed a limitation on sources. As such, this argument provides no basis for reconsideration.

As for Superior's second argument, whether the agency took into account the Hollingsworth prices in determining fair market price is irrelevant given our view, as restated above from our prior decision, that it is not necessary for the agency to increase the fair market price to reflect inflated prices offered by SDB firms as a possible result of a proper controlled source limitation.

As Superior has not shown that our prior decision was based on errors of fact or law, the request for reconsideration is denied.

  
James F. Hinchman  
General Counsel